

REMARKS

In order to facilitate the further examination of the application, all the previous claims (Claims 1 – 106) have been cancelled and replaced by a new set of Claims 107 – 118. The cancellation of the previous claims is, of course, without prejudice of Applicant's right to file a divisional application with respect to the method which was divided out of the present application in response to a Requirement for Restriction.

New Claims 107 – 118 have been drafted in order to more clearly define the present invention and to more sharply distinguish it over the references cited by the Examiner, particularly Pallakoff, which was primarily relied upon by the Examiner in the last Official Action. The amendments to the specification were made to conform the introductory portion of the specification to the language now used in the claims, and also to provide clear antecedent terminology in the body of the specification for the language now used in the claims. In drafting these new claims and amending the specification, care was exercised not to introduce any new matter, i.e., matter not expressly described in the original application or inherent from the original description.

Favorable reconsideration of the application is respectfully requested in the light of these amendments and the following remarks.

In the Final Action of March 12, 2004, the Examiner indicated, in a number of instances, that Applicant, in pointing out the differences in the present invention from the system of Pallakoff, appeared to be arguing "limitations not in the claims", particularly with respect to the following features:

- (1.) that the "tender offer pricewise is only presented to the group once the group is finalized in terms of purchasing members" (page 9 of the Official Action);
- (2.) that there is "a single tender price for a single quantity" (page 10 of the Official Action); and

(3.) that the “single tender price for a single quantity” only exists after the group has been finalized (page 10 of the Official Action).

Claim 107, which is now the only independent claim pending in the application, has been carefully drafted to clearly bring out each of the foregoing features, as well as other features distinguishing Applicants’ system from that of Pallakoff.

Thus, Claim 107 recites, among other features, that the database server system is designed and programmed (a) to maintain a catalog of products, and to make the catalog available to potential purchasers via their respective client devices; and (b) to enable potential purchasers to use their respective user client devices to become members of at least one purchasers group of potential purchasers of designated products by assuming an obligation to purchase one of the respective products at a price no higher than a specified maximum price.

The system defined in Claim 107, therefore, is one where the aggregate purchase is initiated by a purchasers’ group of potential purchasers who assume an obligation to purchase a designated product at a price no higher than a specified maximum price. In contrast, the system described in Pallakoff is one initiated by a seller who communicates conditional offers to potential buyers. Thus, there is a basic difference even in the initial stage of the two types of transactions.

As further set forth in Claim 107, the database server system is designed and programmed (c) to formulate a bid request for a designated quantity of a designated product for purchase by the purchasers group at a price no higher than the respective maximum price; and (d) to present the bid request to a plurality of potential sellers via their respective supplier client devices. The potential sellers are thus (e) able to use their respective supplier client devices to tender offers regarding purchase conditions

for the sale of the designated quantity of the designated product in the formulated bid request.

The foregoing features further distinguish Applicants' method from that of Pallakoff, where the sellers do not receive a bid request for a designated quantity of a designated product, but rather make conditional offers to potential buyers, which conditional offers include prices that depend on the aggregate amount of goods or services that buyers collectively agree to purchase by a given time and date. Thus, in Applicants' system, (1) the quantity is known beforehand, and (2) the price to be paid by each purchaser is a result of competitive bidding for a specific quantity by a plurality of sellers. In the Pallakoff system, however, there is no competitive bidding, and the quantity is not known beforehand. Therefore each purchaser does not enjoy the advantages of competitive bidding, and moreover does not know what price the purchaser will have to pay, until the total quantity to be purchased is determined. In sharp contrast with Pallakoff's system, in Applicants' system each purchaser enjoys the benefit of competitive bidding from a plurality of potential sellers for a designated quantity of the product and does not have to deal with a single seller.

As further set forth in new Claim 107, the database server system is designed and programmed (f) to determine the best selling conditions offered by the sellers, and (g) to make an award to the potential seller offering the best selling conditions for the sale of the designated quantity of the designated product. These features are also not present in the Pallakoff system which does not involve determining the best selling conditions offered by a plurality of sellers, nor the making of an award to the seller offering the best selling conditions for the sale of the designated quantity of the designated product.

It is submitted, therefore, that new Claim 107 defines a system which clearly distinguishes from Pallakoff both under 36 USC 102, as well as under 35 USC 103.

With respect to 35 USC 103, the Examiner also referred to Walker et al U.S. Patent No. 6,418,415, which was applied in combination with Pallakoff against some of the previous claims. It is submitted, however, that Walker et al is no more pertinent to the invention, as presently defined in new Claim 107, than Pallakoff.

Thus, the Walker et al patent involves an aggregate conditional purchase offer (CPO) management system for receiving and processing CPOs from buyers for one or more goods or services. As clearly described in the abstract, CPOs are received from a plurality of potential purchasers and are processed to determine whether the CPO should be provided to sellers individually, and/or collectively as part of an aggregate CPO. The unit price associated with an aggregate CPO may be an average of the individual CPO prices for each CPO included in the aggregate, or may be the total of the individual CPO prices for each CPO included in the aggregate CPO. Such a system thus also seeks the advantages of aggregate purchasing, but does it in a different way from that defined in new Claim 107, and for that matter, also from that described in Pallakoff, such that it is not seen how it would at all be combinable with Pallakoff.

In any event, it is submitted that new Claim 107 clearly distinguishes from both of these references, whether taken singly or in combination, both under 35 USC 102 as well as under 35 USC 103.

The remaining claim 108 – 118 all depend from Claim 107, and are therefore submitted to be patentable with that claim, apart from the features recited in the respective dependent claims.

In view of the foregoing, it is believed this application is now in condition for allowance, and an early Notice of Allowance is respectfully requested.

Respectfully submitted,



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